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ADMISSION OF KANSAS.

SPEECH

OF

HON. L. Q. C. LAMAR, OF MISSISSIPPI,

IN THE HOUSE OF REPRESENTATIVES, JANUARY 13, 1858,

On the violation of the pledge of the Government that Kansas shall be admitted with or without slavery as her constitution may prescribe at the time of such admission.

The House having resolved itself into the Committee of the Whole on the state of the Union, and resumed the consideration of the President's annual message—

Mr. LAMAR said:

Mr. CHAIRMAN: It is not my purpose to discuss the various questions involved in our Central American relations. Should I avail myself of a future occasion to do so, I may be forced reluctantly to dissent from some of the views so ably presented by my distinguished colleague, [Mr. QUITMAN.] However painful this may be to myself, I nevertheless feel confident of his generous indulgence, especially when he sees in my course only the reflex of his own spirit of independence; a spirit which runs like a stream of fire through all his acts and writings, which enabled him a few years since to light up the ardor of a thousand patriots, to fire his countrymen to the assertion of their rights, and this day enshrines him in the hearts and affections of the people of his State without distinction of party.

Mr. Chairman, any proposition which has for its object the advancement and progress of southern institutions, by equitable means, will always commend itself to my cordial approval. Others may boast of their widely-extended patriotism, and their enlarged and comprehensive love of this Union. With me, I confess that the promotion of southern institutions is second in importance only to the preservation of southern honor. In reading her history and studying her character, I delight to linger in the contemplation of that stern and unbroken confidence with which she has always clung to the integrity of her principles and the purity of her honor. In that unfortunate division which has separated our country into sections, natural causes beyond our control have assigned to her the weaker section. A numerical minority finds safety and protection alone in the power of truth and the invincibility of right. The South, standing upon this high ground, has ever commanded the respect of her friends and defied the assaults of her enemies. When ruthless majorities have threatened wrong and injustice, their hands have been stayed only by the deference which the worst spirits unconsciously pay to the cause of justice. In the long and bitter contests which have marked our internal struggles, the South has made but one demand—the Constitution of our common country, the claims of justice, and the obligations of States; and it is our boast to-day, that we can present a record unstained with a single evidence of violated faith or attempted wrong. The same regard for truth, justice, and honor, which characterizes our intercourse with the various sections of our own country, furnishes the safest rules for our dealings with other countries. As the Constitution is the law of our conduct at home, so let good faith be the rule of our conduct abroad.

If I could do so consistently with the honor of my country, I would plant American liberty with southern institutions upon every inch of American soil. I believe that they give to us the highest type of civilization known to modern times, except in those particulars dwelt upon so elaborately and complacently by the gentleman from Massachusetts, [Mr. THAYER.] In that particular form of civilization which causes the population of a country to emigrate to other lands for the means of subsistence, I concede to the North great superiority over our section. [Laughter.] There can be no doubt that New England, and especially Massachusetts, is a splendid country to emigrate from, and, in this respect, stands unrivaled, with perhaps the single exception of Ireland. [Laughter.] And right here I desire to express my acknowledgments to the gentleman for the very apt and classical comparison which he instituted between his section and the *officina gentium*. It never occurred to me before, but since he has mentioned it, I must confess to the resemblance in many respects between the recent emigration from New England and the irruption of the Goths and Vandals. [Laughter.] It is also due to candor that I should say that the gentleman's vindication of the emigrant aid societies places the objects and motives of that enterprise upon more defensible grounds than we of the South supposed to exist. For one, I am

perfectly satisfied that the thing was demanded by *necessity*, and has resulted in benefit to all the parties concerned; that the country was benefited by getting rid of the population, and the population greatly benefited by leaving the country. [Laughter.]

To return from this digression; while I am a southern man, thoroughly imbued with the spirit of my section, I will never consent to submit the fate of our noble institutions to the hands of marauding bands, or violate their sanctity by identifying their progress with the success of unlawful expeditions. And most especially, when I see them receiving the countenance and sanction of a distinguished Senator, whose course on the Kansas question is so fresh in our recollection.

Before I consent to any new schemes of territorial acquisition, to be effected, as usual, by the prowess of southern arms, and the contribution of southern blood and treasure, I desire the question of the south's right to extend her institutions into territory already within the Union, practically and satisfactorily settled by the legislation of this Congress. These territorial acquisitions, so far, have been to the South like the far-famed fruit which grows upon the shores of the accursed sea, beautiful to sight but dust and ashes to the lips. We learn from the President's message that the people of Kansas having reached the number that would justify her admission into the Union as a State, she has, by her duly constituted authorities, taken all the steps necessary to the attainment of this object, and will, in a short time, demand the redemption of the pledge of the Government, that she "shall be admitted, with or without slavery, as her constitution may prescribe, at the time of such admission." But in advance of her application, we are informed by the distinguished author of the Kansas bill, and gentlemen upon this floor, that her case has been prejudged, and her claims rejected. This presents a question before whose colossal magnitude the wrongs of Walker, and the criminality of Paulding, sink into insignificance.

I propose to examine into the grounds upon which this violation of plighted faith is attempted to be justified. The ground principally relied upon is, that the constitution which she presents was framed by a convention not called in pursuance of an enabling or authorizing act of Congress, but on the mere motion of the Territorial Legislature. Now, sir, apart from the practice of the Government, which has not been uniform on this subject, I, for one, admit, to the fullest extent, the propriety and importance of such an act of Congress. I have always held that the sovereignty over these Territories was vested in the people of these United States; that the power of legislation in reference to them belonged to Congress, and that this power was limited only by the Constitution and the nature of the trust, and that before the inhabitants of the Territory are competent to form a constitution and a State government, it is necessary that Congress should first withdraw its authority over the Territories. The necessity of an enabling act, I concede to the fullest extent. Whenever individuals in a Territory undertake to form a State government, without the previous assent of Congress, they are, in my opinion, guilty of gross usurpation and flagrant disregard of the rights of the United States and the authority of Congress. Under such circumstances, it becomes a question purely of discretion with Congress, whether to remand them to their territorial condition, or to waive the want of authority, and to ratify the proceedings as regular and lawful.

The question now presents itself, do the circumstances attending the application of Kansas for admission into the Union present such a case? Was the convention at Lecompton an unauthorized and revolutionary assemblage, usurping the sovereignty of the State, and throwing off unlawfully the authority of the United States? I hold that it was a convention of the people, called by the regularly constituted authority, and with the previous assent of Congress. I hold that the Kansas bill was an enabling act, vesting the Territorial Legislature with power to call such a convention. In analyzing the provisions of that noble law, we find that it looks to higher objects and more enduring results than the mere organization of temporary territorial governments for Kansas and Nebraska. It looks beyond the territorial *status; it provides for its admission as a State;* and in express terms pledges the faith of Government that it shall be received into the Union "with or without slavery, as its constitution may prescribe at the time of such admission." It also declares the "intent and meaning of this act" to be, "not to legislate slavery into any Territory or State, nor to exclude it therefrom; but to leave the people thereof perfectly free to *form* and regulate their institutions in their own way, subject only to the Constitution of the United States and the provisions of this act."

Now, had the bill stopped here—had it gone no further—there might be some ground for the objection that additional legislation by Congress is necessary. For the bill might guaranty to the people admission as a State, and the right of forming their constitution, and yet reserve to Congress the all-important power of determining *when* the people had attained a sufficient maturity and growth to fit them for the enjoyment and exercise of this highest and most glorious right of self-government. It might reserve to itself the power of determining who should constitute such a people—who should be the qualified voters—and in short, of prescribing all the steps preliminary to a call of the convention of the people. I say Congress might well have reserved all these high and delicate discretionary powers to herself, and there might be some ground for claiming them in behalf of Congress, had the bill stopped with the clause which I have quoted.

But, unfortunately for the enemies of Kansas, the bill does not stop here. It goes on to confer the most ample powers on the Territorial Legislature. In section twenty-two, after providing for the first election, it says:

"But thereafter the times, places, and manner of holding and *conducting all elections* by the people, shall be prescribed by law."

Again, after providing for qualifications of voters for the first election, it says:

"But the qualification of voters, and of holding office, at all subsequent elections, shall be such as shall be prescribed by the Territorial Legislature."

In section twenty-four, it is further enacted that the legislative power of the Territory shall extend to *all rightful subjects of legislation* consistent with the Constitution

These clauses, taken together, embrace the entire subject in dispute, and vest all powers connected therewith in the Territorial Legislature. What can be a more clear and rightful subject of legislation than to determine the time when a people shall emerge from their condition of territorial pupilage into that of State sovereignty, of calling a convention of the people, prescribing the qualification of voters, and arranging the usual details preparatory to the application for admission as a State. Indeed, sir, according to the well settled maxims of civil law, no people can undertake to form or abolish a constitution, except in obedience to the summons or invitation of the existing legislative authority. It was in this view that Congress has delegated these high and important matters of legislative discretion to the territorial government. You may take up any enabling act passed by Congress, and you cannot find a provision in it which is not involved either in the specific grants or general delegation of powers contained in the Kansas bill.

The conclusion which the language of the bill authorizes, is strengthened and sustained by its history. When this bill was first reported, it contained the usual power, which you find in all territorial bills, of congressional veto, revocation, or repeal of the territorial laws; but it was stricken out, and the bill became a law, with no reservation of power to Congress touching this point, limiting the broad grant of jurisdiction to the Territorial Legislature over "all rightful subjects of legislation." If the language of the bill and its history could leave any doubt as to the correctness of this construction, it would at once be removed by a recurrence to the debates when the bill was pending in Congress. The speeches of both friends and foes are replete with the proof of what I say. I could quote from the author of the bill, and from its supporters in this House, to show that their object was to transfer to the people of Kansas the entire control over her internal affairs, including slavery, untrammeled by any congressional legislation. But, sir, it is not necessary.

It may be said that, if this construction be true, the bill embraced two entirely distinct and dissimilar subjects: one organizing a Territory, and the other providing for the admission of a State. Well, sir, if I am not mistaken, this very objection was made, to wit: that the bill was against all regular parliamentary procedure. And a distinguished gentleman from Missouri, after exhausting his powers of invective, like a man in fight reserving his most potent weapon for the last blow, threw at the bill an immense word, which sent our venerable Secretary of State stunned and reeling to the dictionaries. He said it was "amphibological." But the framers of that bill were not after parliamentary symmetry or harmony of outline. Their object was to settle great questions of strife which threatened the integrity of the Union; to bind in one compact and durable structure the equality of the States, the authority of Congress, and the glorious right of self-government; to build a platform on which the rights of every section in the Union might rise above the turbulent waters of sectional strife, and proudly defy all the attacks of fanaticism. In confirmation of the view I have taken, I desire to invoke the authority of the distinguished publicist and jurist who is now lending his influence to the enemies of the South and of Kansas. Mr. Robert J. Walker, in his inaugural address as Governor of Kansas, speaking of the Lecompton convention, says:

"That convention is now about to be elected by you, under the call of the Territorial Legislature created, and still recognized by the authority of Congress, and clothed by it, in the comprehensive language of the organic law, with full power to make such an enactment. The Territorial Legislature, then, in assembling this convention, were fully sustained by the act of Congress."

Again, he says:

"The people of Kansas, then, are invited by the *highest authority known to the Constitution* to participate, freely and fairly, in the election of delegates to frame a constitution and State government. The law has performed its entire function when it extends to the people the right of suffrage: but it cannot compel the performance of that duty. Throughout our whole Union, and wherever free government prevails, those who abstain from the exercise of voting authorize those who do vote to act for them in that contingency; and the absentees are as much bound, under the law and Constitution, where there is no fraud or violence, by the act of the majority of those who do vote, as though all had participated in the election."

It is true that the distinguished author of the bill denies that it confers any such power. And yet the very ground upon which he rests his opposition to the admission of Kansas seems to break the moral force of this denial. His position is, that the Kansas bill intended that the constitution, when adopted, should be submitted to a direct vote of the people; that this was its intent and meaning. Now, sir, if the bill went so far as to prescribe the *mode of adopting* the constitution, it certainly contemplated the framing of it. A constitution cannot be *submitted* to the people until it is *formed*.

Having demonstrated that this convention, assembled to form the constitution, possessed every attribute heretofore regarded requisite to complete its work effectually, it is easy to refute the objection that before it can present a valid title to this Congress, it should be first submitted, for adoption or rejection, to the people; not to the people whose delegates framed it, but to them and such settlers as may have come into the Territory during its progress to completion! In order to show how empty and ridiculous are the pretexts for rejecting Kansas, I propose to give this argument in the language of its author. Speaking of what the President says of the convention at Lecompton, the distinguished gentleman to whom I refer, [Mr. DOUGLAS,] says:

"The President does not say, he does not mean that this convention had ever been recognized by the Congress of the United States as legal or valid. On the contrary, he knows, as we here know, that during the last Congress I reported a bill from the Committee on Territories to authorize the people of Kansas to assemble and form a constitution for themselves. Subsequently, the Senator from Georgia [Mr. TOOMBS] brought forward a substitute for my bill, which, after having been modified by him and myself in consultation, was passed by the Senate. It is known in the country as 'the Toombs bill.' It authorized the people of Kansas Territory to assemble in convention and form a constitution preparatory to their admission into the Union as a State. That bill, it is well known, was defeated in the House of Representatives. It matters not, for the purpose of this argument, what was the reason of its defeat. Whether the reason was a political one; whether it had reference to the then existing contest for the Presidency; whether it was to keep open the slavery question; whether it was a conviction that the bill would not be fairly carried out; whether it was because there were not people enough in Kansas to justify the formation of a State; no matter what the reason

was, the House of Representatives refused to pass that bill, and thus denied to the people of Kansas the right to form a constitution and State government at this time."

Proceeding then to discuss the power of the Territorial Legislature to call a convention, he concludes as follows:

"If you apply these principles to the Kansas convention, you find that it had no power to do any act as a convention forming a government; you find that the act calling it was null and void from the beginning; you find that the Legislature could confer no power whatever on the convention."

Upon a subsequent occasion, defending his position, he says, as follows:

"In other words, I contended that a convention, constituted in obedience to an enabling act of Congress previously giving assent, is a constitutional body of men, with power and authority to institute government; but that a convention assembled under an act of the Territorial Legislature, without the assent of Congress previously given, has no authority to institute government." * * * *

"This was my position in regard to the effect of an enabling act. I then went on to show that, there having been no enabling act passed for Kansas, the Lecompton convention was irregular."

It is rather late in the day for this gentleman to begin to rectify such irregularities. We need go no further back than California. She was begotten by a military general, and forced into the family of States by the Cæsarean operation of an executive *accoucheur*. [Laughter.] Yes, sir, without any previous assent of Congress, without even the authority of a Territorial Legislature; without any census; a land of roaming adventurers was lugged into the Union over all law and precedent, as the coequal of the oldest State of this Union, because it happened to be a free State. What then said this stickler for enabling acts? How spoke the putative father of these latter-day doctrines? Mr. Douglas said, in 1850:

"I come now to consider California as a State. The question is now presented, whether we will receive her as one of the States of this Union; and, sir, why should we not do it? The proceedings, it is said, in the formation of her constitution and State government have been irregular. If this be so, whose fault is it? Not the people of California, for you have refused, for the period of two years, to pass a law in pursuance of which the proceedings would have been regular. Surely, you will not punish the people of California for your own sins—sins of omission as well as of commission.

"It will be recollected by every Senator present—I trust the fact will not be forgotten—that more than one year ago, I brought in a bill to authorize the people of California to form a State constitution, and to come into the Union. Had that bill passed, the proceedings would have been regular.

"Well, the bill was defeated, and the people of California, acting upon these suggestions, and relying upon the precedents cited, have formed a constitution and presented themselves for admission. Now they are to be told that they cannot be received, because Congress failed to pass a law, and the proceedings are irregular without it. I do not precisely understand what is meant by the irregularity of these proceedings. I have examined the precedents in all the cases in which new States have been admitted into the Union, from Vermont to Wisconsin. I will not go over them in detail," &c. "Those precedents show that there is no established rule upon the subject. There are several cases in which there have been no previous assent of Congress, no census taken, no qualifications for voters prescribed. There is no rule, and consequently can be no irregularity." * * * * "I hold that the people of California had a right to do what they have done—yea, they had a moral, political, and legal right to do all they have done."

How different is his language to Kansas! The very refusal of Congress to pass an enabling act for California is urged as a justification of her monstrous proceedings, and is presented as her strongest title to admission. But when Kansas applies, the same action by Congress is relied upon as an insurmountable obstacle to her admission. The California convention had the perfect right, moral, legal, and political, to do what they have done. But the Kansas convention, although acting under an act of Congress which pledged the faith of the nation to her admission as a State, acting under a regular and legal call of her people, every safeguard provided, is held to have no power to do any act as a convention forming a government; that the act calling it was null and void from the beginning, and that Congress, in refusing to pass an enabling act, (no matter what the motive,) denied to the people the right to form a constitution and State government.

Sir, how are we to reconcile such glaring inconsistency? There is but one solution, and every day is riveting it in the southern mind; and that is, where a State applies for admission with a constitution excluding slavery, no irregularity can be too enormous, no violation of precedent too marked, no disregard of constitutional procedure too palpable, no outrage can be too enormous for its admission as a State into the Union; but when a State applies for admission with slavery in its constitution, no excuse can be too trivial, no pretense too paltry and ignoble, to keep her out. Sir, the direct tendency, and with some the avowed object, of all this opposition, is to delay the admission of Kansas until she becomes a free State. I do not charge this on that gentleman. But why does he pursue this course? It is but an offshoot of that damnable policy which has been preying upon the vitals of the South for the last forty years—that of buying peace for the turbulent and fanatical at the expense of the quiet and orderly. When Missouri applies for admission, Abolitionism gets up an excitement about slave territory. For peace sake Congress overleaps the Constitution, and marks out a line beyond which slavery shall not go. Abolitionism raves to be heard in Congress about slavery generally, and for the sake of peace Congress allows it to fill the Capitol with Abolition petitions which it has no power on earth to grant. Abolitionism hires armed bands to go and drive slaveholders out of Kansas, and Robert J. Walker, for peace sake, would hand it over to them. To pacify a band of rebels, reeking with the blood of southern men, women, and children, to whom he is indebted for all he is, he turns against his benefactors, he violates his pledge, abuses his trust, disgraces his office, truckles to the vile, tramples on the just, and scatters the firebrand of discord throughout Kansas, the Union, and the Capitol. And Stephen A. Douglas, who was for lassoing California and dragging her into the Union over all law and precedent, and the violated rights of fifteen of the sovereign States of this Union, would now subject Kansas to all the rigors of the Inquisition to keep her out of the Union.

But we are told that it is a contempt of the authority of the people of Kansas—that it is an inroad upon popular sovereignty to withhold from them a revision of their constitution. Sir, the authority of the people is fully recognized; popular sovereignty, as a principle, is fully enforced when an opportunity is afforded to the legal voters to deposit their votes for delegates to a convention. Are not those delegates the people's representatives? Is there a lawyer present who would teach his client that the acts of an authorized agent are invalid if not submitted for ratification to the prin-

cipal? Would he tell them that such acts unsubmitted would be insulting to the principal's dignity, or intrusive upon his prerogatives? Would you say that no respect should be paid to the acts, or to the principal himself, if he suffered them to go forth as his own, unratified? The truth lies just in the opposite direction. "The right of electing delegates to a convention," in the language of the profoundest writer on the philosophy of government, "places the powers of the Government as fully in the mass of the community, as they would be had they assembled, made, and executed the laws themselves without the intervention of agents or representatives."

The people act in their sovereign capacity when they elect delegates; and the delegates thus elected, and convened, are, for all practical purposes, identical with the people. Sir, I take higher grounds. I hold that the highest embodiment of sovereignty, the most imposing political assemblage known to our constitution and laws, is a convention of the people legally assembled, not *en masse*, for such an assemblage is unknown in our representative system, but by their delegates, legally elected. When such a body, with no declared limitation upon their powers, are deputed to form a constitution, and they execute their trust, the constitution, *ipso facto*, becomes the supreme law of the land, unquestionable and unchangeable by any power on earth, save that which ordained it. This is no novel doctrine. It has the sanction of the wisest and greatest men known to American history. Mr. Calhoun, speaking of a convention of the people, says it implied "a meeting of the people, either by themselves or by delegates chosen for the purpose in their high sovereign character. It is, in a word, a meeting of the people in the majesty of their power—in that in which they may rightfully make or abolish constitutions, and put up and down governments, at their pleasure." (Calhoun's Works, vol. 2, page 612.) Our present Chief Magistrate, in standing by the action of the Lecompton constitution, is only acting in accordance with his opinions long since recorded. In the debate on the veto power, he said:

"The Senator [Mr. CLAY] asks, why has not the veto been given to the President on acts of conventions held for the purpose of amending our constitutions? If it be necessary to restrain Congress, it is equally necessary to restrain conventions. The answer to this argument is equally easy. *It would be absurd to grant an appeal through the intervention of the veto to the people themselves against* THEIR OWN ACTS. They create conventions by virtue of their own undelegated and inalienable sovereignty; and when they speak, their servants, whether legislative, judicial, or executive, must be silent."

Such was the convention of Lecompton, and the constitution it presents was established under laws, Federal and territorial, to which every man in Kansas (except rebels) has given his consent. These laws direct the election, prescribe the order of it, the qualification of voters, and the times of holding the meeting, and the duties and qualifications of the presiding officer. In this way the delegates were elected. They met; and upon mature deliberation framed a constitution—a constitution republican in form, and securing to the people of Kansas all those great institutions of freedom which have ever been regarded as the only and surest bulwarks of civil liberty. Violating no law, inconsistent with no principle of the Federal Constitution, it preserves and guaranties to the people of Kansas all the great agencies of freedom, the right of habeas corpus, trial by jury, freedom of the press and speech, and liberty of conscience, as inviolate and pure as when they were first given to us, baptized in the blood of our revolutionary fathers. Now, sir, can a greater insult be offered to the understanding of the American people than to say that a constitution thus established would gain anything of credit or sanctity by a ratification like that contended for? I grant that the people, through the legislature, may reserve to themselves the right of ratification, or the delegates may recognize it in the constitution itself; and in either case a ratification would become necessary to the validity of the instrument; but without those terms it would become absolute as soon as sanctioned by the delegates.

I go further. I boldly maintain that wisdom, prudence, and policy demand that the delegates should be entirely untrammeled in framing the fundamental law. The people in mass cannot deliberate upon a constitution, adopt what is good, and amend what is faulty in it. They must adopt or reject it, in the entire; and thus, on account of objections to a single clause, they might reject the most admirable constitution ever devised by the wisdom of man. The radical error which underlies the whole argument of these gentlemen is this: they assume that there is a general agreement of opinion, a collective sentiment of the people, *as a unit*, as to what shall be the principles and provisions of their fundamental law, and that this common sentiment is to be ascertained only by a direct vote of the people. And yet, sir, such a course might result in a grave and capital delusion. If a method could be devised for collecting the opinion of each citizen upon each clause of a constitution, the diversities of sentiment would be equal to the number of voters, and, perhaps, greater. The theory of ratification, however, does not allow to the people the right of framing a constitution, or even offering amendments and modifications. They can only, like a witness on cross-examination, answer "yea" or "nay." And I repeat, a constitution which might stand an imperishable monument of human wisdom, could be voted down by an immense majority, of which each individual member might be in an actual minority on the particular subject-matter of his dissent. Such a process, so far from evoking the general pervading sentiment of a people as to what shall be their fundamental law, may signally fail in eliciting the true view of a single individual.

Sir, I admit that a direct vote of the people is a fair test of their will, when you submit to them a single isolated proposition, such as the question of excluding slavery submitted by the Kansas convention. But whether it is the best mode or not depends upon circumstances. It depends, for instance, upon the number voting on the question of ratification as compared with the number who vote for delegates. Now, so far as I have observed, the elections in which the people manifest the least interest are those in which they are called upon to pass upon constitutions and constitutional questions. It is not the way the people choose to exercise their right of self-government. In the ancient city of Athens, where democratic absolutism existed in its purest form, the number of citizens entitled to vote amounted to about twenty-

five thousand persons; and yet not more than five thousand were generally given on the most interesting questions. And on questions of ostracism six thousand votes were sufficient. If you will consult the poll-books of the different States of this Union, where men and propositions claim the suffrages of the people at the same time, you will generally find that the men get three votes where the proposition gets one. I could call attention to numerous instances of this kind which have fallen within my own observation.

We accordingly find, that nearly all writers on governmental and social science, representing every class of opinion, (except a few run mad red-republicans of Germany and France,) unite in condemning this theory of direct appeal to the people. Montesquieu, in his "Spirit of Laws," speaking of democracy, says:

"The people, in whom resides the supreme power, ought to do of themselves whatever conveniently they can; and, what they themselves cannot rightly perform, they must do by their ministers.

"The people are extremely well qualified for choosing those whom they are to intrust with a part of their authority.

"Should we doubt of the people's natural ability, in respect to the discernment of merit, we need only cast an eye on the continual series of surprising elections, made by the Athenians and Romans, which no one surely will attribute to hazard. But are they able to manage an intricate affair; to find out and make a proper use of places, occasions, moments? No; as most citizens have a capacity of choosing, though they are not sufficiently qualified to be chosen, so the people, though capable of calling others to an account for their administration, are incapable of the administration themselves."

A distinguished Senator has laid down the proposition that, under the power to admit new States Congress is forced by a paramount duty to see that the constitution of a State asking admission into the Union embodies the will of the majority of the people. Sir, I hold that a constitution presented by the regular and legally constituted authority is conclusive upon Congress as to the will of a people. We will not allow any such issue to be presented. We assert the right of the people to form their Government; but we hold, and I think I have already shown, that the highest and purest exhibition of their sovereign will is a people acting by their own chosen delegates in convention assembled. The Federal Government, and half of the States of this Union, were formed in this way, and they need no improvement from the constitutional tinkering of this day.

To object that the convention may have abused its powers, and that the constitution should be submitted to a direct popular vote, in order that it may be ascertained whether it accords with the will of the people, is to beg the question, and to strike at the very root of all constitutional and legal authority. It is an objection not to the constitution of Kansas alone, but to the very genius and framework of all representative government. Upon the same ground that a constitution framed by delegates should be submitted to the people, it may also be demonstrated that every law enacted by Congress, or by a legislature, and that every verdict by a jury, or decision of a court, should likewise be submitted for the approval of the people. Sir, a delegate *may* misrepresent the people, a Senator or Representative may misrepresent his constituents, but the remedy does not lie here in this central power of the Republic, (more liable to abuse than any other,) it lies in the hands of the local constituency, to whom the representatives are immediately responsible. And here lies the efficacy and power of our form of Government. The direct responsibility of our rulers to their constituents, the right of suffrage among the people, aided by that great moral engine of freedom, the liberty of the press, are the *vis medicatrix naturæ* of our political system, sufficient to remedy every disorder and throw off every impurity, without resorting to violent irregularity and revolutionary action.

When a State applies for admission, Congress is bound to subject her to no restrictions except such as Congress may constitutionally impose upon the States already composing the Union. There is but one limitation which you are bound to impose, and that is, that her form of government should be republican. But, under the power to guaranty a republican form of government, you have not the right to range with unlimited discretion through every provision of her constitution, interfere with her internal and local distribution of political power, adjust questions of majority and minority, lay down arbitrary rules of your own as to what constitutes republican government, and, by compelling her to conform to them, substitute the will of Congress for hers as to what shall be her fundamental law. Are not the constitutions of the original thirteen States pretty fair tests as to what constitutes republican government? Can any one say that the Kansas constitution, tried by this test, the only one which you can rightfully apply, is not a republican form of government? Where is the feature in it contrary to our republican institutions, or repugnant to the paramount Constitution of the Union?

We are told by a distinguished gentleman that he would "pass over forms, ceremonies, and organizations, to get down deep to the will of the people." Sir, the will of the people can *only* be obtained through these forms, ceremonies, and organizations; and the structure of our Government is intended to provide these forms and organizations, through which the people can speak authentically and authoritatively. What can he mean by passing over and disregarding these forms? The Constitution of the United States is a form. Times, places, and manner of holding elections, and qualifications of franchise, are but forms, through which the people exercise their power. This matchless Government, springing from the Constitution and the division of power between the Federal and State Governments, is but an organization. Would he pass over all these to get down to what he sees proper to consider the will of the people? The doctrine is monstrous, dangerous, and disorganizing. It gives to the action of regular government no more authority than belongs to an ordinary, voluntary assemblage of citizens, outside of the Constitution and law. If these views be correct, we had better, at once, tear down this splendid fabric of American architecture, and discard conventions, Legislatures, and Congresses, as inconvenient, cumbrous superfluities, and resort at once to the democratic absolutism of Athens. The doctrine has been in Europe omnipotent for pulling down forms, ceremonies, and organizations, but powerless for reconstruction; like those serpents in the East, which, while they inflict a death-blow, breathe

out their own life in the wound of their dying victim.

We were told by the gentleman from Ohio, [Mr. Cox,] that the constitution is not republican in form, because it prohibits amendment, alteration, or change, until after 1864, and then hampers the perfectly free action of the people by requiring a majority of two thirds of the Legislature to concur before they will allow the majority to call for amendment. But the climax of anti-republicanism is the provision that "no alteration shall be made to affect the rights of property in the ownership of slaves;" a doctrine that would tumble into irretrievable ruin the Federal Constitution, and the constitutions of half the States in the Union, including that of the gentleman's own State; for there is not one of these which does not contain as stringent and dilatory limitations as are found in this Kansas constitution. The argument by which he supports this view is, that the "Democracy, as taught in Ohio, believes in the repealability of everything by the popular voice." Do the Democracy of Ohio consider the clauses of the Constitution securing all those great rights, such as freedom of speech, freedom of the press, liberty of conscience, inviolability of property, repealable by the popular will? Do the Democracy of Ohio believe in the repealability of that clause guarantying the right of a State to equality of representation in the Senate of the United States? This may be Democracy in Ohio; but I hope it is a Democracy confined to Ohio alone. It may be Republicanism, but it is not the constitutional republicanism of America; it is the red republicanism of France. The very tenure by which the gentleman exercises the privilege of uttering these objections against the Kansas constitution, is an oath to support a Constitution liable to them all; a Constitution imposing the heaviest restrictions on the power of amendment; a Constitution whose framers intended it, not as an instrument of power, but as an instrument of protection against power.

It would be well for these gentlemen to consider when, and by whom, this particular mode of adopting a constitution, which they insist is the only true mode, was first established. It was not by the fathers of this Republic—the men of 1776. The Federal Constitution was not submitted for adoption to a direct vote of the people, nor were the constitutions of the Old Thirteen. The first instance in modern times, so far as my researches go, was the constitution of 1799, which was submitted to the people of France, and accepted by a vote of three million to fifteen hundred. This was in accordance with the teachings of Rousseau—the doctrine of unlimited, indivisible, undelegated power of the people—a doctrine almost identical in terms to that upon which the opposition to the admission of Kansas rests. What was the result? The sovereignty of the people was established and recognized, the King was beheaded, the nobility were banished, the religion abolished, property confiscated, and France converted into one moral and political volcano, from the conflict of whose discordant elements arose the demon of centralization and military despotism, the rod of whose power smote down all the valuable rights of the people, and the cherished interests of humanity. It was during the progress of this fanatical and bloody drama, that one of its most conspicuous and sanguinary actors, appalled by the magnitude of the power which he had invoked, exclaimed: 'Do you not see the project of appeal to the people tends but to destroy the representative body? It is sporting with the sovereign majesty of the people, to return to it a work which it charges you to terminate promptly."

The next constitution submitted to the people was the consular constitution of 1802—only three years later—making Napoleon Bonaparte consul for life, and conferring on him the power of naming his successor and the senate: in other words, a despotism. It was submitted to the vote of the people of France, and accepted by 3,568,885 against 8,374. And from that time, the unlimited sovereignty of the people has been the potent instrument by which the Napoleons have fastened upon France a despotism more grinding and debasing than that of the Autocrat of Russia. The fathers of our Republic proceeded on principles totally opposite. Adopting as a fundamental dogma that all political power springs from the people, they insisted and incorporated it into their organic law, that this power should not be unlimited and absolute. They accordingly established our grand system of representative Government, with its checks, balances, guarantees, and organic laws—the noblest political institution that adorns the pages of the history of civilization, and which experience has shown to be the only means of securing and diffusing among a people that broad, civil liberty which constitutes the distinguishing features of the American and British Governments. I say British Government; for the statesmen of 1776 founded our institutions, not upon Utopian theories, but upon those great fundamental principles of the common law inherited from our Saxon ancestors, which guarantied to English freemen the right of personal security, personal liberty, and private property, with their judicial safeguards and protecting forms, as inviolable and irrepealable by any power on earth.

The convention in Kansas, having declared in their fundamental law that the right of property in slaves, already existing, shall not be interfered with, has only given a constitutional sanction to a principle as old as the foundations of free government. And, sir, Congress is bound, by the most solemn obligation that honor can impose, to admit her with this very clause in her constitution. Sir, we of the South demand the redemption of your pledge. The issue is boldly tendered, and we are ready to go before the great Areopagus of the American people upon it. And when the enemies of Kansas shall attempt to justify their opposition to her by invoking a principle which has deluged Europe in blood, only to sink her into more degraded despotism, we will justify her admission upon the principles which lie at the foundation of our Republic. We will call upon the people to stand true to the traditions of our ancestors and the practice of the Government when Washington was President and the men of the Revolution ministered at the altars of liberty.

One word upon the bill introduced into this House by a member from Massachusetts, [Mr. Banks,] calling another convention in Kansas, for the purpose of framing a second constitution, to be submitted to the people for acceptance or rejection. Mr. Chairman, Congress has no more

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right to call a convention of the people in Kansas than it has the right to call such a convention in New York. By the act of Congress, and the action of her people, the entire relation of Kansas to this Government has been changed. It is no longer a Territory of these United States. She has, by your own authority and permission, thrown off the habiliments of territorial dependence, and stands now a State, clothed with all the attributes and powers of a State, and asks admission as an equal in this noble confederation of sovereignties.

You may reject her ap[illegible] it will be at your own peril. To remand her to her territorial condition you cannot, any more than you can roll back to their hidden sources the waters of the Mississippi. Kansas is a separate, organized, living State, with all the nerves and arteries of life in full development and vigorous activity. Between your laws and her people she can interpose the broad and radiant shield of State sovereignty, and may laugh to scorn your enabling acts.

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